

REMARKS

5 A. Rejection of claims 1-4, 7, 9-12, 15-18, 21, 22, 25-29 and 36 under 35 U.S.C. 102

On page 2 of the Office Action, The Examiner has rejected claims 1-4, 7, 9-12, 15-18, 21, 22, 25-29 and 36 under 35 U.S.C. 102(e) as anticipated by U.S. patent no. 6,115,157 (hereinafter referred to as Barnard). The Applicant respectfully traverses this rejection and submits that
10 the claims as filed are in allowable form, as discussed herein below.

CLAIM 1

Claim 1 is reproduced below for convenience (emphasis added):

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In an optical network comprising a plurality of sites, a method of carrying out performance equalization of a plurality of channels, wherein each channel travels through the network from one of the sites, called an "add" site for that channel, to another one of the sites, called a "drop" site for that channel, comprising:

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determining a channel-specific figure of merit for each channel;

determining a site-specific figure of merit for each site that is a drop site for at least one channel; and

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adjusting a transmit power of each channel as a function of the channel-specific figure of merit for that channel and as a function of the site-specific figure of merit for that channel's drop site.

The Examiner is respectfully requested to note from Barnard (and even from the very passages of Barnard cited by the Examiner, i.e., column 3, lines 1-44) that the activities resulting in equalization of a given channel are dependent on measurements regarding that channel
30 individually (i.e., channel-specific measurements), without reference to site-specific measurements (which are influenced by channels other than just the channel of interest). See specifically, the two methods disclosed on lines 14-16 and 29-31 of Barnard.

Patent
Attorney Docket No.: 85773-229

Moreover, the Applicant respectfully submits that there is no support for the Examiner's argument on page 2 of the Office Action to the effect that Barnard discloses "determining a BER for all channels" and that this would equate to the site specific figure of merit as claimed. Again, the reference to "all channels" in Barnard is directed to each channel on an individual
5 basis. It is respectfully submitted that the Examiner has failed to show which figure of merit in Barnard he considers to be the "site-specific figure of merit". For this reason, it is not even necessary for the Applicant to consider the additional distinction afforded by the limitation of "adjusting a transmit power [...] as a function of the site-specific figure of merit for that channel's drop site".

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It will thus be apparent that the Examiner has not shown Barnard to teach or suggest all of the claimed limitations. Therefore, the Applicant respectfully submits that the rejection under 35 USC 102(e) cannot stand and the Examiner is respectfully requested to withdraw his rejection of claim 1.

09/667,680

Patent
Attorney Docket No.: 85773-229CLAIMS 2-25

Claims 2-25 are dependent from claim 1 and as such contain all the limitations present in that claim. Therefore, for the same reasons as those set forth in support of claim 1, the Examiner is respectfully requested to withdraw his rejection of claims 2-25.

CLAIM 26

Claim 26 is reproduced below for convenience (emphasis added):

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A method of generating power adjustments used to control the transmit power of a plurality of channels, wherein each channel travels from a corresponding "add" site to a corresponding "drop" site in a WDM optical network, wherein each channel from among the set of channels either dropped at or travelling through a site occupies a distinct wavelength of light, the method comprising:

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receiving a wavelength-specific figure of merit for each wavelength at each site;

determining a channel-specific figure of merit for each channel from the wavelength-specific figures of merit for those wavelength/site combinations corresponding to that channel;

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determining a site-specific figure of merit for each site that is a drop site for at least one channel from the wavelength-specific figures of merit associated with that channel's path; and

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generating the power adjustment for each channel as a function of the channel-specific figure of merit for that channel and as a function of the site-specific figure of merit for that channel's drop site.

Analogously to the arguments set forth above in support of claim 1, the Applicant respectfully submits that the Examiner has not shown Barnard to teach either the claimed limitation of "determining a site-specific figure of merit for each site that is a drop site for at least one channel", or the claimed limitation of "generating the power adjustment [...] as a function of the site-specific figure of merit" for the drop site for the channel of interest.

Patent
Attorney Docket No.: 85773-229

Since claim 26 recites at least one limitation that fails to be taught or suggested by the cited art, it is respectfully submitted that the rejection under 35 USC 102(e) cannot stand and the Examiner is respectfully requested to withdraw his rejection of claim 26.

5 CLAIMS 27-35

Claims 27-35 are dependent from claim 26 and as such contain all the limitations present in that claim. Therefore, for the same reasons as those set forth in support of claim 26, the Examiner is respectfully requested to withdraw his rejection of claims 27-35.

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CLAIMS 36-40

Analogously to the arguments set forth above in support of claims 1 and 26, the Applicant respectfully submits that the Examiner has not shown Barnard to teach either the claimed
15 limitation of "determining [or "determine"] a site-specific figure of merit for each site that is a drop site for at least one channel", or the claimed limitation of "generating [or "generate"] the power adjustment [...] as a function of the site-specific figure of merit" for the drop site for the channel of interest.

20 Since claims 36-40 each recite at least one limitation that fails to be taught or suggested by the cited art, it is respectfully submitted that the rejection under 35 USC 102(e) cannot stand and the Examiner is respectfully requested to withdraw his rejection of claims 36-40.

25 **B. Rejection of claims 5, 6, 8, 13-14, 19-20, 23-24, 30-32, 35 and 37-40 under 35 U.S.C. 103**

On page 4 of the Office Action, the Examiner has rejected claims 5, 6, 8, 13-14, 19-20, 23-24, 30-32, 35 and 37-40 under 35 U.S.C. 103(a) as being unpatentable over Barnard U.S. Patent 6,115,157 (hereinafter referred to as Barnard) in view of Li et al U.S. 2003/0053163
30 (hereinafter referred to as Li).

Patent
Attorney Docket No.: 85773-229

The Examiner's attention is directed to the following:

I. The present application – United States Patent Application Serial No. 09/667,680 to Foo

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- Assignment from sole inventor to Nortel Networks Limited – Registered at Reel/Frame 011133/0927, recorded September 22, 2000.

II. United States Patent 6,040,933 (Application Serial No. 08/994,761) to Li et al.

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- Assignment from all inventors to Northern Telecom Limited – Registered at Reel/Frame 9206/0690, recorded June 4, 1998.

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- Change of Name from Northern Telecom Limited to Nortel Networks Corporation – Registered at Reel/Frame 010498/0355, recorded January 6, 2000.

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- Change of Name from Nortel Networks Corporation to Nortel Networks Limited – Registered at Reel/Frame 011195/0706, recorded August 30, 2000.

III. United States Patent 6,155,157 (Application Serial No. 08/997,822) to Banard et al.

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- Assignment from all inventors to Northern Telecom Limited – Registered at Reel/Frame 9154/0477, recorded April 17, 1998.

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- Change of Name from Northern Telecom Limited to Nortel Networks Corporation – Registered at Reel/Frame 010567/0001, recorded December 23, 1999.

09/667,680

Patent

Attorney Docket No.: 85773-229

- Change of Name from Nortel Networks Corporation to Nortel Networks Limited – Registered at Reel/Frame 011195/0706, recorded August 30, 2000.

5 It is respectfully submitted that the above-referenced documents establish that Barnard and Li were, at the time the present invention was made, owned by the same person or subject to an obligation of assignment to the same person. On these grounds, under 35 U.S.C. 103(c), and given that the present application was filed on or after November 29, 1999, the Examiner is respectfully requested to withdraw his rejection of claims 5, 6, 8, 13-14, 19-20, 23-24, 30-32, 35 and 37-40.

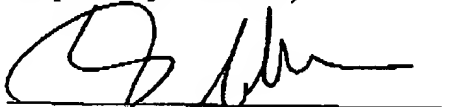
09/667,680

Patent
Attorney Docket No.: 85773-229CONCLUSION

5 In view of the foregoing, the Applicant is of the view that claims 1-40 are in allowable form.
Favourable reconsideration is requested. Early allowance of the Application is earnestly
solicited.

10 If the application is not considered to be in full condition for allowance, for any reason, the
Applicant respectfully requests the constructive assistance and suggestions of the Examiner in
drafting one or more acceptable claims pursuant to MPEP 707.07(j) or in making constructive
15 suggestions pursuant to MPEP 706.03 so that the application can be placed in allowable
condition as soon as possible and without the need for further proceedings.

Respectfully submitted,



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